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San Diego, California
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ph forward to
Ed member for
March agenda.



BUIE COMMUNITIES

February 28, 2002

Mr. John Robertus
Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

**Re: Cleanup and Abatement Order R9-2002-0016
Sycamore Vista Business Center**

Dear Mr. Robertus:

Buie Communities has previously requested a hearing to address the Board on the CAO (# R9-2002-0016) during the March 13, 2002 hearing. We have subsequently met with your staff regarding the action and clarified that our concerns focused on issues of fact in the violations alleged in the CAO rather than issues of Buie Communities' intent to comply with the requirements of the CAO.

Buie Communities believes that it has reached an agreement with Regional Board staff that would result in resolution of all compliance issues contained within the CAO and result in net improvements to the waters of the State. The resolution includes full compliance with the requirements of the CAO with specific clarifications provided in the attached *Buie Communities' Sycamore Vista Business Park Regional Water Quality Control Board Cleanup and Abatement Order Resolution Program* (February 27, 2002) and *Preliminary Concept Plan for the Implementation of Restoration, Mitigation, and Passive Stormwater Discharge Best Management Practices Along the Agua Hedionda Creek Corridor within the Sycamore Vista Business Park* (February 27, 2002).

In order to accomplish the outlined work, it is anticipated that a time extension for the full implementation of various elements will be required. Required time extensions are outlined in the attached documents.

As a result of the progress made working with your staff to resolve this matter, Buie Communities sees no need for a public hearing at this time and would like to withdraw its request for a hearing on the referenced CAO. We appreciate Regional Board staff's efforts and willingness to meet promptly with us to resolve this regrettable situation. If you have any questions on our request, please do not hesitate to call me at (858) 794-2400, extension 230.

Sincerely,

Ed Barlow
Vice President

Attachments

2002 FEB 28 P 3:26
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

**Buie Communities' Sycamore Vista Business Park
Regional Water Quality Control Board
Cleanup and Abatement Order
Resolution Program**

Merkel & Associates, Inc.
February 27, 2002

Background

On January 29, 2002 the Regional Water Quality Control Board issued a Cleanup and Abatement Order # R9-2002-0016 (Order) to Buie Communities, citing several violations. The cited violations included not implementing effective sediment and erosion control BMPs or good housekeeping practices, and unauthorized discharges of fill material into waters of the State (Agua Hedionda Creek).

Subsequent to issuance of the Order, the site was stabilized and site construction BMP violations were corrected.

On February 18, 2002 a meeting between representatives of Buie Communities, R.E. Hazard Construction Company, and the Regional Board was held on-site to discuss the substance of the Order and it was noted that some significant errors of fact were included in the Order. Buie Communities did, however, concur that there were legitimate causes of action contained within the Order.

On February 20, 2002, the last day available to request a hearing on the substance of the Order, and with errors of fact still present in the Order, Buie Communities requested a public hearing before the Regional Board. A hearing was scheduled for March 13, 2002.

On February 26, 2002, an additional meeting was held between Regional Board staff, Buie Communities, R.E. Hazard, and Merkel & Associates. During this meeting, errors of fact in the Order were acknowledged but set aside to focus on actions to resolve the entirety of the Order through restoration actions to be performed on-site. An agreement in concept was reached between the Regional Board and Buie Communities to resolve all issues in the Order. At this meeting, Buie indicated that it believes that there is no need for a hearing on the Order given the ability to resolve the issues of concern with Regional Board staff following the elements of the Agreement in Concept outlined below. It is the intent of Buie Communities to comply with the terms of the Order and implement the Agreement in Concept in full resolution of the issued Cleanup and Abatement Order.

Agreements in Concept

The points of agreement were as follows:

1. Regional Board staff shall tour the site again with Buie Communities and R.E. Hazard to confirm that adequate measures have been taken to correct construction BMP violations. If issues remain to be addressed, these will be identified at that time and corrected promptly thereafter. This meeting is anticipated to occur on or before March 10, 2002.
2. Development storm drainage systems shall be constructed as designed, including the inclusion of all post-construction structural BMPs.
3. Buie Communities shall submit an updated SWPPP to the Regional Board. The Regional Board shall work with Buie Communities to identify any shortcomings of the updated SWPPP. The final updated SWPPP shall be submitted after Board review by March 15, 2002.
4. For construction pads that have been built and which are no-longer in the possession of Buie Communities, Buie shall submit a Change of Information and shall remind the buyers of their construction BMP obligations and the requirement to file a new SWPPP with the Board. Buie will not have further obligations regarding these lots.
5. Buie Communities shall restore the on-site portion of the Agua Hedionda Creek open space to provide wetland mitigation to compensate for habitat impacts and degradation of the waters and will implement non-structural BMP benefits in the form of biological treatment systems.

**Preliminary Concept Plan for the
Implementation of Restoration, Mitigation, and Passive Stormwater Discharge Best
Management Practices Along the Agua Hedionda Creek Corridor within the Sycamore
Vista Business Park**

Merkel & Associates, Inc.

February 27, 2002

Background

On January 29, 2002 the Regional Water Quality Control Board issued a Clean-up and Abatement Order # R9-2002-0016 (Order) to Buie Communities, citing several violations. The cited violations include not implementing effective sediment and erosion control BMPs or good housekeeping practices, and unauthorized discharges of fill material into waters of the State (Agua Hedionda Creek). The completion of a restoration, mitigation, and stormwater management program along the on-site portion of Agua Hedionda Creek has been agreed to as an element in the resolution of this Clean-up and Abatement Order. This document outlines the component actions included in the creek program.

Plan Elements

The following elements are included in this Plan:

- The existing historic roadway fill is to be removed from the riparian area to the extent practical without adverse impact to existing utilities (see map). The removal of this fill and portions of the adjacent uplands are to provide the necessary areas to develop wetland habitat and BMPs.
- Wetland restoration consisting predominantly of willow riparian woodland is to be created at a 5:1 impact to restoration area ratio to compensate for the wetland impacts associated with the initial construction activities in the Agua Hedionda Creek open space. Any damage to wetland-associated habitats resulting from the completion of activities directed by this plan shall be mitigated at a 1:1 areal extent ratio. This compensatory mitigation will be restored within areas designated for wetland restoration on the attached map.
- Trash, debris, and invasive exotic plants will be removed from the Agua Hedionda wetlands existing on-site. To the extent practical, this will be accomplished without damage of native riparian vegetation.
- A bio-swale will be constructed outside of existing wetlands to collect and treat stormwater run-off discharged from the development on the north side of Agua Hedionda Creek. This facility is intended to be located within the area designated in the attached map.

A detailed plan for the implementation of these plan elements will be prepared following the framework of the existing plan governing wetland mitigation for impacts occurring at the

southern end of the Sycamore Vista Business Park. Specific elements to be addressed in this plan include:

Wetland Restoration

Wetland restoration shall be accomplished by excavation of the historic roadway fill to the elevation of surrounding creek grades and replanting the site with native riparian vegetation. Edges of the restoration area will slope gently up to the surrounding uplands in order to avoid creation of erosive slopes. These areas will be restored with native riparian transition Baccharis and Sage Scrub vegetation. Plant materials anticipated to be used in the restoration of wetlands include:

- Arroyo Willow (*Salix lasiolepis*)
- Goodding's Black Willow (*Salix gooddingii*)
- Fremont Cottonwood (*Populus fremontii*)
- Mulefat (*Baccharis salicifolia*)
- Mugwort (*Artemisia douglasiana*)
- California Blackberry (*Rubus ursinus*)
- Coyote Brush (*Baccharis pilularis*)
- Flat-top Buckwheat (*Eriogonum fasciculatum*)
- California Sagebrush (*Artemisia californica*)
- California Encelia (*Encelia californica*)

Riparian restoration shall be installed by April 30, 2002.

Wetland Enhancement

Existing wetlands along the on-site portions of Agua Hedionda Creek are to be enhanced through the removal of discarded trash and debris including material discarded over years of illicit dumping on the property. A number of invasive exotic species occur within the on-site wetlands and are to be removed as an element of the enhancement. These include:

- Castor Bean (*Ricinus communis*)
- Pampas Grass (*Cortaderia* sp.)
- Short-pod Mustard (*Hirschfeldia incana*)
- Hottentot Fig (*Carpobrotus edulis*)
- Peruvian Pepper (*Schinus molle*)

Although the following invasive exotic species were not observed, they will also be removed should they be found on-site at a later time:

- Giant Reed (*Ariundo donax*)
- Brazilian Pepper (*Schinus terebinthifolius*)
- Tamarisk (*Tamarix* sp.)
- Tree Tobacco (*Nicotiana glauca*)

To the extent practical, material will be removed from the vegetation by hand labor or equipment working along the edges of the vegetation in order to minimize damage to existing native vegetation.

Enhancement activities shall occur prior to March 31 in order to avoid disruption of breeding riparian birds. In the event that the necessary CDFG Streambed Alteration Agreement modifications cannot be processed prior to March 15, then enhancement activities shall be delayed until after the riparian bird breeding season and shall be completed by October 30, 2002.

Bio-Swale Passive Stormwater BMPs

A bio-swale shall be designed to collect stormwater from development on the northern side of Agua Hedionda Creek and provide passive treatment prior to release into the newly restored wetlands of Agua Hedionda Creek. This bio-swale will be designed following presently accepted design and sizing standards being investigated through the Caltrans BMP pilot programs.

The bio-swale shall be constructed prior to April 30, 2002.

Monitoring and Success Milestones

Maintenance

Maintenance of the restoration area will be carried out over a 5-year period following the completion of all planting activities. Maintenance will consist of weed and exotic plant control, plant replacement, control of vandalism, and incidental activities, as necessary, to ensure adequate development of wetland vegetation. Early termination of the maintenance program would be allowed if all fifth year success criteria were met during any prior year.

Weed abatement on-site will be performed to control particularly noxious or competitive species which could inhibit the growth of desirable native vegetation. Hand weeding will be performed as needed over the maintenance period. Exotic plants to be removed from the site will include, but not be limited to, Short-pod Mustard, Cocklebur, Castor-bean, Tree Tobacco, Fennel (*Foeniculum vulgare*), and Russian Thistle (*Salsola tragus*). Other weedy plants that invade the site in prohibitive numbers will be removed if they pose a significant threat to the growth or survival of the target vegetation.

Failed starts of tree and shrub materials will be replaced, as necessary, to achieve the restoration goals or as prescribed in the monitoring program. As necessary, dead plant materials will be replaced by container-grown trees. Where micro-site conditions are more favorable for growth of a different native riparian species of similar character (*i.e.*, canopy tree, understory shrub), plant substitutions, as directed by the restoration specialist, may be made from the list of plants originally selected for planting at the site. This will allow reasonable assurance for the continued survival and recruitment of plant materials.

The mitigation site will be posted as a habitat restoration area using all-weather, plastic-printed "No Trespassing" signs indicating who should be contacted with regard to any questions or concerns about the site. Signs will be placed at site access points. Temporary fencing or barriers will be erected, if found to be necessary, along access points to discourage pedestrian trespassing and vandalism. Temporary fencing is not proposed unless access to the area is identified as a problem. Trash removal will be performed, as necessary, to prevent damage to plantings.

Monitoring

Monitoring of the mitigation site to assess the status of the revegetation effort will be initiated following the completion of planting. Monitoring surveys will take place 0, 6, 12, 24, 36, 48,

and 60 months after beginning the monitoring/maintenance period. This period will be shortened if final success milestones are achieved early.

The monitoring program will incorporate the use of fixed transects and photo plots to determine the total plant cover within each planting zone, the percent cover of each species present, and the percent survival of container revegetation materials utilized in the restoration program. In addition to transect monitoring, a general overview of the site will be made in order to assess overall compliance with success criteria, species richness of the site, and areas requiring special modifications to the maintenance program.

Success Milestones

Success milestones have been established in order to track project status and facilitate a successful restoration project. Each milestone is accompanied by the maintenance required if the project fails to reach the ultimate goals. Milestone requirements and corrective maintenance are outlined in the following table. Within one month following each monitoring period, a report detailing the results of the monitoring and prescribed remedial maintenance to be performed will be completed. The results will be provided to the California Department of Fish and Game, ACOE, RWQCB, and the City of Vista for review, comment, and general status information. Any comments on the monitoring program or site conditions should be forwarded to the project restoration specialist.

Table 1. Habitat Success Milestones

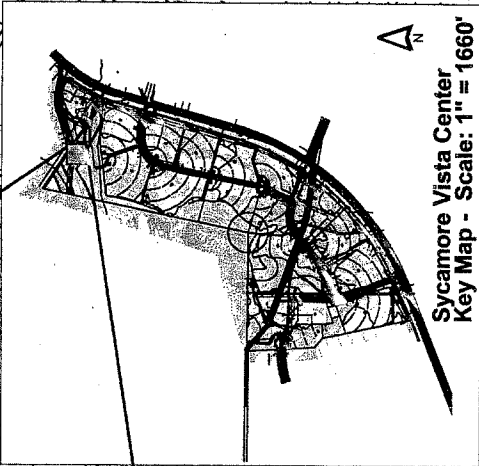
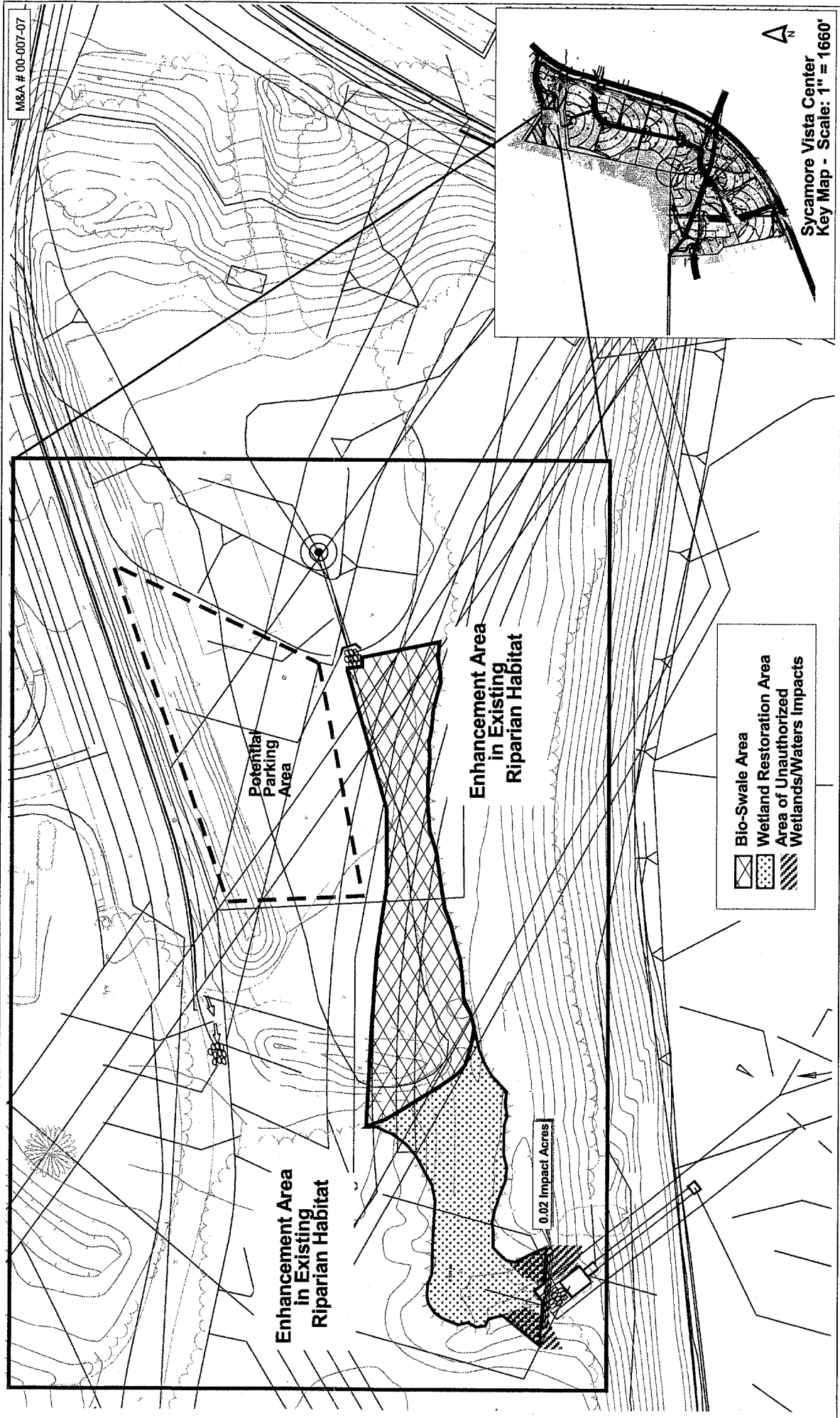
Milestone	Assessment Criteria	Maintenance Action
0 Month	Baseline information; no coverage criteria; all planting densities achieved. 100% survival of all container plants.	Plant densities brought up to meet requirements.
6 Months	Target vegetation cover totals at least 10%. 80% overall survival of all container plants materials.	If cover or survival criteria fail to achieve minimum standards, plant densities will be brought up to 100% of the initial planting densities.
12 Months	Target vegetation cover totals at least 40%. 100% survival of all plants achieving 6 month milestone.	If cover or survival criteria fail to achieve minimum standards, plant densities will be brought up to 100% of the initial planting densities.
24 Months	Target vegetation cover totals at least 60%. 100% survival of all plants achieving 12 month milestone and/or 65% cover.	If cover criteria is not met, additional planting will be performed to bring all areas up to initial planting densities.
36 Months	Target vegetation cover totals 75%. Survival of individual units dropped as criteria. Natural recruitment of target vegetation exhibited along transects.	If cover criteria is not met, additional planting will be performed to bring all areas up to initial planting densities.
48 Months	Target vegetation cover totals 80%. Natural recruitment of target species noted on transects. Irrigation completely phased out.	If cover criteria is not met, additional planting will be performed to bring all areas up to initial planting densities. Native riparian plant substitutions will be made based on prevailing conditions and successful development of stock.
60 Months	Target vegetation cover totals 90%. Average canopy exceeds 6 feet and Arroyo Willows, Goodding's Black Willows, and Fremont Cottonwoods exceed 9 feet. Natural recruitment of target species noted on transects.	If parts of the revegetation failed to achieve the outlined goals, an analysis will be made by the regulatory agencies to determine reasonable alternatives which could be exercised to satisfy mitigation requirements.

Plan Implementation Schedule

A plan detailing the proposed wetland restoration and passive non-structural BMPs shall be prepared and submitted to the Regional Board by March 15, 2002. This plan shall be approved by the Regional Board staff for implementation by March 25, 2002.

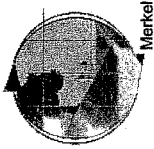
The proposed work shall be completed during March and April 2002 unless elements of work are delayed pending issuance of required modifications to the project Streambed Alteration Agreement. In such an event, delayed activities are contemplated to be completed during September and October 2002.

M&A # 00-007-07

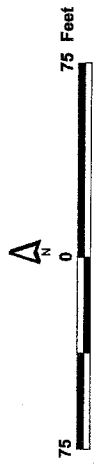


- Bio-Swale Area
- Wetland Restoration Area
- Area of Unauthorized Wetlands/Waters Impacts

Sycamore Vista Business Center Preliminary Concept Plan



Merkel & Associates, Inc.



CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD - SAN DIEGO REGION
WATERSHED MANAGEMENT PROGRAM

FACILITY INSPECTION REPORT

INSPECTION DATE: 3/5/02 TIME: 9:00 WDID: 9375316384

FACILITY REPRESENTATIVE(S) PRESENT DURING INSPECTION: Ed Barlow (Buie Communities) Phil Harris
(Hazard Construction) Rod Ballard (C.T.C) Stephanie Zanders (SD Erosion Control)

Buie Communities
NAME OF OWNER, AGENCY OR PARTY RESPONSIBLE FOR DISCHARGE
Sycamore Vista Business Center
FACILITY OR DEVELOPER NAME (if different from owner)
Sycamore Ave & Green Oaks Road
FACILITY STREET ADDRESS

Ed Barlow (858) 794-2400 x 230
OWNER CONTACT NAME AND PHONE #
Phil Harris (760) 599-5822
FACILITY OR DEVELOPER CONTACT NAME AND PHONE #
Vista, CA
FACILITY CITY AND STATE

APPLICABLE WATER QUALITY LICENSING REQUIREMENTS

- ☐ MS4 URBAN RUNOFF REQUIREMENTS NPDES NOS. CAS0108758, CAS0108740 or CAS0108766
- ☒ GENERAL PERMIT ORDER NO. 99-08-DWQ, NPDES NO. CAS000002 - CONSTRUCTION
- ☐ GENERAL PERMIT ORDER NO. 99-06-DWQ, NPDES NO. CAS000003 - CALTRANS
- ☐ GENERAL OR INDIVIDUAL WASTE DISCHARGE REQUIREMENTS
- ☐ GENERAL OR INDIVIDUAL WAIVER OF WASTE DISCHARGE REQUIREMENTS
- ☐ SECTION 401 WATER QUALITY CERTIFICATION
- ☐ CWC SECTION 13264

INSPECTION TYPE (Check One)

- A1 ☐ "A" type compliance--Comprehensive inspection in which samples are taken. (EPA Type S)
- B1 ☐ "B" type compliance--A routine nonsampling inspection. (EPA Type C)
- 02 ☐ Noncompliance follow-up--Inspection made to verify correction of a previously identified violation.
- 03 ☒ Enforcement follow-up--Inspection made to verify that conditions of an enforcement action are being met.
- 04 ☐ Complaint--Inspection made in response to a complaint.
- 05 ☐ Pre-requirement--Inspection made to gather info. relative to preparing, modifying, or rescinding requirements.
- 06 ☐ No Exposure Certification (NEC) - verification that there is no exposure of industrial activities to storm water.
- 07 ☐ Notice of termination request for industrial facilities or construction sites - verification that the facility or construction site is not subject to permit requirements (Type, NOT I or NOT C - circle one).
- 08 ☐ Compliance Assistance Inspection - Outreach inspection due to discharger's request for compliance assistance.

INSPECTION FINDINGS

Y Were violations noted during this inspection? (Yes/No/Pending Sample Results)
N Were samples taken? (N=no) If YES then, G= grab or C= Composite and attach a copy of the sample results/chain of custody form

I. COMPLIANCE HISTORY:

- CAO No. R9-2002-0016 issued 01/29/02
- submitted SWPPP for project in compliance w/ CAO, after review found inadequacies will resubmit UPDATED SWPPP soon.
- Submitted conceptual Restoration plan on time, need extension to complete Full plan

FACILITY: Sycamore Vista Business Center (WDID) 316384 INSPECTION DATE: 3/5/02

II. FINDINGS (See attached inspection checklist)

- Erosion Controls: site perimeter along Sycamore & Green Oak Sprayed w/ mulch & tackifier. Open space sprayed w/ erosion protection next to creek.
- Sediment Controls: sedimentation basins will be constructed on-site as outlined in updated SWPPP to be submitted soon.
- Hazardous materials storage: Buie has constructed a lined bermed storage area for petroleum products. WYROC's fueling area is a mess, contaminated soil, not adequately contained. Buie stated it will be taken care of immediately.
- Run on from nuisance flow coming onto site, crossing east → west discharging into old sedimentation basin constructed by WYROC, which has become habitat. Buie will create a series of check dams to slow flow & allow sediment to drop out, before discharging to side drainage of Agua Hedionda.
- Area of concern: SW portion of site is an old landfill site, borders trib. drainage of Agua Hedionda Creek drainage will be partially filled in, Buie has 401 waiver, will be difficult to keep sediment out of Tributary, while trash is being removed. Waste Removal is permitted by US.

III. RECOMMENDATIONS AND ADDITIONAL COMMENTS, ITEMS TO FOLLOW-UP FOR FUTURE INSPECTIONS, NOTES, ETC.

Discharger is cooperative in addressing RB concerns. Assured RB staff that areas of concern noted during inspection will be addressed. (Fueling area, runon) Followup is needed before RB meeting, SWPPP needs to be reviewed to determine adequate sizing of proposed sedimentation basins, need to verify that appropriate action has been taken.

- Had problem w/ digital camera, many pictures did not come out.

iv. SIGNATURE SECTION

Inspection Report
received by:FACILITY REPRESENTATIVE
Chris Means

STAFF INSPECTOR

SIGNATURE
Chris Means
SIGNATURETITLE
DATE

INSPECTION DATE

VI. (For internal use only)

Reviewed by Supervisor: Robert Mannis Date 3-7-02cc: Jeremy Johnstone (EPA), John Norton (SWRCB), City Storm Drain Enforcer

Inter-office Referral: 1) _____ 2) _____ 3) _____ 4) _____ 5) _____

s: north watershed unit/forms/inspection form.doc (vrs. 11/22/00)

Discharge point off-site to tributary of Agua Hedionda Creek. A sedimentation basin will be implemented here to reduce discharge of sediment into tributary.



Buie has improved their BMPs for storage of hazardous materials. There is still work that needs to be done.



Urban runoff from developments offsite is flowing across site. Buie needs to ensure it doesn't pick up additional sediment as it crosses site.



Run-on flowing across site flows into historic sedimentation basin constructed by quarry operators, which has become habitat.



Lower portion of site, adjacent to Agua Hedionda Creek has been cleaned up, and covered with mulch & tackifier temporary erosion control/

